SINGLE BENCH

No. 5569/05

Presented by Shri Ramesh Jain

dated 24/X/05

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

WRIT PETITION. NO. 5278 OF 2005

BETWEEN

1. Idhan Das S/o Shri Nanak Ram , aged about 52 years.
2. Nanak Ram S/o Megha Mal, aged about 80 years.
3. Kanhaiya Lal S/o Nanak Mal, aged about 50 years.
4. Om Prakash S/o Nanak Ram, aged about 42 years.

All are resident of Tilda, Tahsil and District Raipur (CG).

PETITIONER

RECEIVED-COPY
Dated 24/10/05
CLERK to A. G. BILASPUR

AND

1. The State of Chhattisgarh,
   Through the Secretary Department of Revenue , Chhattisgarh,
   D.K.S. Building, Raipur (C.G.)
2. The Collector , Raipur (CG).
3. Nazul Officer, Tilda , Tahsil and District Raipur .
4. Tahsildar, Tilda , District Raipur (CG).

RESPONDENTS

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

HIGHLARS OF THE PETITIONER

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(169)

आदेश पत्रक

W.P. No. 5278/05
मामला क्रमांक ..... सन् ~~2005~~

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	04/07/2006 Shri Awadh Tripathi, counsel for petitioners. Shri Sushil Dubey, Government Advocate for the respondents/State. Shri Manoj Paranjape, counsel for objector. Heard. All the petitioners were served with notice dated 19/10/2005 by Tahsildar, Tilda informing them that Nazul lands allotted to them on lease have been cancelled by the order of Collector dated 03/05/2002 and by order of State Government dated 27/01/2003, and in revenue record in place of their name the lands have been recorded as Government land, therefore, they were directed to remove their possession by 25/10/2005 otherwise to be removed by coercive process. Admittedly, on the report of Tahsildar dated 31/07/2001 and 05/10/2001 Nazul Officer submitted his proposal dated 24/04/2002 wherein he proposed cancellation of lease of Idhan Das, Kanhaiya Lal, Nanak Ram and Devi Bai and also proposed institution of criminal case against Ashok Kumar. The Collector accepted the proposal on 03/05/2002 by writing "As proposed". Feeling aggrieved, Ashok Kumar challenged the order before the Commissioner, Raipur who vide order dated 13/08/2002 dismissed the same on the ground that the representation is not	

(देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 5278/05
मामला क्रमांक ..... सन् [redacted]

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

under the provisions of RBC. The order passed by the Commissioner dated 13/08/2002 has been assailed before the State Government. State Government vide order dated 27/01/2003 holding the representation not maintainable, dismissed the same.

Tahsildar Tilda, in his report dated 31/07/2001 proposed that the lease granted to Devi Bai may be cancelled and proposed that a number of persons taking benefit of policy applicable to refugees have obtained land on lease, which requires enquiry. Nazul Officer in his note sheet dated 24/04/2002 mentioned that Tahsildar vide his report dated 31/07/2001 has proposed to cancel lease after due scrutiny and to initiate criminal prosecution. Nazul Officer in his proposal proposed to cancel the lease granted to Idhan Das, Kanhaiya Lal, Nanak Ram and Devi Bai and proposed to initiate criminal proceeding against Ashok Kumar. Collector without assigning any reasons wrote on note sheet "As proposed".

Equity demands, proper opportunity of hearing. Admittedly Nazul lands have been granted to petitioners on lease by appropriate authority after following legal procedure prescribed for it and after a valid grant they took possession and were enjoying it. Therefore, if they are to be deprived of from their enjoyment, they are required to be given proper opportunity by the authority empowered to cancel the lease. Nazul Officer was not the officer

(ले देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 5278/05
मामला क्रमांक ..... सन् [redacted]

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

who enquired the matter. Nazul Officer on the report of Tahsildar drawn the note sheet proposing cancellation of lease deed, but he himself did not after scrutiny give reasoned proposal for it, and the Collector also did not care to assign any reasons for cancellation of lease deeds while accepting the proposal on 03/05/2002. Commissioner and State also did not consider the matter of cancellation of lease on merit.

If by playing fraud or misrepresentation, petitioners have obtained the lands on lease or if the lease granted to the petitioners is for any reason illegal and is liable to be cancelled that should be cancelled, but in accordance with law.

In the result, it is directed that the matter of cancellation of lease of petitioners be heard afresh by the competent authority after affording opportunity of hearing to them and thereafter to decide the same by passing appropriate order of cancellation or otherwise. Petitioners may be ejected but not otherwise than in accordance with law.

Sd//-
V.K.Shrivastava
Judge

K.r

(पीछे देखिये)

19/10/11